



Foreign Agricultural Service

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Mexico

Sugar

Tax for Beverages Containing HFCS Reinstated 2002

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Report Highlights:

On July 17, 2002, the Mexican Supreme Court of Justice published in the *Diario Oficial* (Federal Register) an announcement reinstating the 20-percent tax imposed on sales of beverages containing HFCS.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Mexico [MX1], MX

Introduction: This report summarizes a final ruling from the Supreme Court of Justice published in Mexico's "*Diario Oficial*" (Federal Register) on July 17, 2002.

Disclaimer: This summary is based on a *cursory* review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in Spanish, the latter shall prevail.

FAS/Mexico's Executive Summary: The Supreme Court of Justice voted unanimously on July 12, 2002, in favor of a ruling that endorses the collection of a 20-percent duty on soft drinks and beverages that contain high fructose corn syrup (HFCS). This decision nullified a previous Presidential decision in March 2002 which had suspended the tax until September 30, 2002. The 20-percent tax will be reimposed on July 16, 2002 and will not be retroactive for tax not collected during the time period it was suspended (March 6 - July 15). After Fox's decision to temporarily revoke the tax, Mexican legislators brought the case to the Supreme Court, contending that the executive branch's ability to repeal a tax passed by Congress was unconstitutional. The Supreme Court decision of July 12, 2002 ruled in favor of Congress on these grounds of unconstitutionality. However, this decision did not rule on the fairness of Congress' initial imposition of this tax. This decision was officially published by the Secretariat of the Treasury (SHCP) in the *Diario Oficial* on July 17, 2002.

Background Information: In December 2001, the Lower House of the Mexican Congress approved a 20-percent tax on soft drinks and beverages containing HFCS. Due to subsequent concerns and protests from the HFCS industry in Mexico, the executive branch suspended the imposition of the tax until September 30, 2002. This executive branch decision was published by SHCP in the March 5th issue of the *Diario Oficial*. On April 2, 2002, Mexican legislators brought the case to the Supreme Court, citing the unconstitutionality of the executive branch to repeal taxes passed by Congress. The table below contains the reports related to this ruling:

Date	Title of Report	FAS Rep #
1/4/2002	New Tax for Beverages Containing HFCS	MX2002
3/5/2002	Tax Lifted for Beverages Containing HFCS	MX2036

Trade Concerns: Before the 20-percent tax was imposed, some Mexican bottling companies were using HFCS in a 50-percent sugar and 50-percent fructose combination in their soft drink manufacturing formula. As a result of the imposition of the 20-percent duty on January 1, 2002, certain bottling companies switched to or increased their usage of cane sugar in their product formulas. Sugar can be readily purchased on the domestic market, due to Mexico's current sugar surplus. When President Fox suspended the tax in March 2002, these bottling companies continued to use sugar, due to the uncertainty surrounding the temporary nature of the tax repeal. Thus, the reimposition of this tax, according to industry sources, will have little impact on these bottling companies as they never reverted to HFCS use when Fox suspended the tax. In fact,

since the tax was announced in January, almost no HFCS has been sold to soft drink bottlers in Mexico. With the reinstatement of the tax, HFCS imports from the United States will continue to be low for 2002, as the soft drink industry comprised 50-percent of HFCS demand in Mexico. The remaining demand will be destined mainly to the bakery and jams industries. The HFCS industry believes that this tax discriminates unfairly against sugar sweeteners use in Mexico.

Title: Ruling relative to the constitutional controversy on the 20-percent duty on HFCS-containing beverages.

Type of Regulation: Final

Important Dates

1. Publication Date: July 17, 2002

2. Effective Date: July 16, 2002

Products Affected: High Fructose Corn Syrup (HFCS)

Agency in Charge: Secretaria de Hacienda y Credito Publico (SHCP), or Secretariat of the Treasury

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FAS Mexico Web Site: We are available at <http://www.atomexico.gob.mx> or visit our headquarter's home page at <http://www.fas.usda.gov> for a complete selection of FAS' worldwide agricultural reporting.

Useful Mexican Web Sites: Mexico's equivalent of the Department of Agriculture (SAGARPA) can be found at www.sagarpa.gob.mx and Mexico's equivalent of the Department of Commerce (SE) can be found at www.economia.gob.mx. These web sites are mentioned for the readers' convenience but USDA does NOT in any way endorse, guarantee the accuracy of, or necessarily concur with the information contained on the mentioned sites.